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REMARKS/ARGUMENTS

Claims 1, 7, 9, and 17 have been amended by way of the present amendment. Claims 1-21 remain pending in the application. Reconsideration of the pending claims in view of the amendments above and remarks below is respectfully requested.

Turning to the specific objections and rejections:

1. Claims 1, 2, 4, 5, 7-10, 12-15 and 17-21 stand rejected under 35 U.S.C. § 102(b), as being anticipated by U.S. Patent No. 6,272,793 (herein the '793 patent) to Davlantes.

A limitation directed to an *adjustable rise*, wherein the rise is adjusted by the positioning of spacer panels adjacent to the portal assembly has been added to Claims 1, 7, 9, and 17. The '793 patent has no reference to an *adjustable rise*. Rather the '793 patent merely addresses adjusting the height of a door panel frame by inserting spacers between the topmost member 56 and the horizontal top frame member 52.¹ Thus, the '793 patent discloses an apparatus for adjusting the height of a door frame and NOT the rise of a pet portal. Furthermore, the apparatus of the '793 patent could not be modified to have an adjustable rise because the pet door unit 34 is flush to the sill 20 with no reference to the addition or removal of spacers from between the sill 20 and the bottom of the pet

¹ See Figure 2 of the '793 patent

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door unit 34.²

Thus, the '793 patent does not teach each and every limitation of independent claims 1, 7, 9, and 17. As claims 2, 4, 5, 8, 10, 12-15, and 18-21 depend from claims 1, 7, 9, and 17, Applicants respectfully request that the present rejection be withdrawn from each of claims 1, 2, 4, 5, 7-10, 12-15 and 17-21.

2. Claims 1, 3-5, 7-9, 11, 12, 15 and 17-21 stand rejected under 35 U.S.C. § 102(b), as being anticipated by U.S. Patent No. 3,932,959 (herein the '959 patent) to Jansons et al.

As previously described, claims 1, 7, 9, and 17 have been amended to include a limitation directed to an adjustable rise, wherein the rise is adjusted by the positioning of spacer panels adjacent to the portal assembly. The '959 patent similarly has no reference to an *adjustable rise or a portal assembly*. Rather the '959 patent discloses a shutter assembly which inherently does not have a rise (as shutters are designed for windows and not portals).

Thus, the '959 patent does not teach each and every limitation of independent claims 1, 7, 9, and 17. As claims 3-5, 8, 11, 12, 15, and 18-21 depend from claims 1, 7, 9, and 17, Applicants respectfully request that the present rejection be withdrawn from each of claims 1, 3-5, 7-9, 11, 12, 15 and 17-21.

² See Column 2, lines 7-19 and Figure 1 of the '793 patent

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Claim Rejections - 35 U.S.C. § 103

3. Claims 6 and 16 stand rejected under 35 U.S.C. § 103(a), as being unpatentable over U.S. Patent No. 6,272,793 to Davlantes in view of 4,047,331 (herein the '331 patent) to Davlantes.

As previously discussed, the '793 patent does not describe an *adjustable rise* as set forth in amended claims 1 and 9, from which claims 6 and 16 depend. The '331 patent does not describe an *adjustable rise or even spacers*. Thus, for at least the reasons presented above (including the arguments on pages 6 and 7) the '793 patent in combination with the '331 patent does not teach each and every limitation of claims 6 and 16. Therefore, Applicants request that the present rejection be withdrawn from claims 6 and 16.

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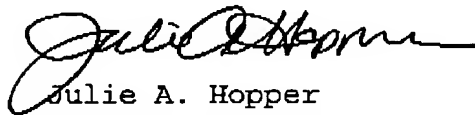
CONCLUSION

By way of the remarks and amendments provided herein, Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain any outstanding issues that require adverse action, it is respectfully requested that the Examiner telephone Thomas Lebens at (805)781-2865 so that such issues may be resolved as expeditiously as possible.

The Commissioner is hereby authorized to charge any additional fees which may be required by Applicants to Deposit Account No. 50-1616.

Respectfully submitted,

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